



1 To date, Muenter has not filed a response to the order to show cause, or otherwise  
2 appeared in this action. As Muenter has not timely contested any of the allegations in the  
3 government's petition, there is no need for a hearing, and the August 5, 2005 hearing on  
4 this matter is hereby VACATED.

5 An IRS summons may be issued for the purpose of "ascertaining the correctness of  
6 any tax return, making a return where none has been made, determining the liability of any  
7 person for any internal revenue tax . . . or collecting any such liability." See 26 U.S.C.  
8 § 7602(a). This Court has jurisdiction to compel compliance with an IRS summons. See  
9 26 U.S.C. §§ 7402(b) and 7604(a).

10 Enforcement of an IRS summons is generally a summary proceeding to which a  
11 taxpayer has few defenses. See United States v. Derr, 968 F.2d 943, 945 (9th Cir. 1992).  
12 To obtain enforcement of a summons, the IRS must first establish its good faith by showing  
13 that the summons: (1) is issued for a legitimate purpose; (2) seeks information relevant to  
14 that purpose; (3) seeks information that is not already within the possession of the IRS; and  
15 (4) satisfies all administrative steps required by the United States Code. See Fortney v.  
16 United States, 59 F.3d 117, 119 (9th Cir. 1995) (citing United States v. Powell, 379 U.S. 48,  
17 57-58 (1964)). The government's burden is a slight one and typically is satisfied by the  
18 introduction of a sworn declaration of the revenue agent who issued the summons that the  
19 Powell requirements have been met. See id. at 120. The Court finds the IRS has met its  
20 burden.

21 Once a prima facie case is made, a heavy burden is placed on the taxpayer to show  
22 an abuse of process or the lack of institutional good faith. See id. The taxpayer must  
23 disprove the actual existence of a valid civil tax determination or collection purpose by the  
24 IRS. See United States v. Jose, 131 F.3d 1325, 1328 (9th Cir. 1997) (en banc). The  
25 taxpayer must allege specific facts and evidence to support his allegations of bad faith or  
26 improper purpose. See id. As Muenter has failed to respond to the order to show cause or  
27 to the petition, he has not met his burden.

28 Accordingly, the petition for enforcement of IRS summons is hereby GRANTED, and

1 Muenter is ORDERED to appear before IRS Revenue Officer Jeanne Kurtz at 185 Lennon  
2 Lane, Suite 200, Walnut Creek, CA 94598, at such time as is specified by the IRS. At that  
3 time, Muenter shall answer the IRS officer's questions and produce the documents  
4 requested in the summons. Muenter is hereby advised that if he fails to do so, the Court  
5 may hold him in contempt of court, pursuant to 26 U.S.C. § 7604(b), and impose such other  
6 sanctions as are permitted by law.

7 The Clerk shall close the file.

8 **IT IS SO ORDERED.**

9 Dated: July 26, 2005

  
MAXINE M. CHESNEY  
United States District Judge

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